

REMARKS

In response to the Notice of Non-Compliant Amendment, Applicants have listed cancelled claims 1-83 and included the text of withdrawn claim 92.

Under separate cover, Applicants are submitting a copy of each foreign patent and each publication cited in the information disclosure statement, filed August 16, 2001, as required by 37 C.F.R. 1.98(a)(2). Applicants respectfully request the Examiner to consider these references.

The Specification has been amended to update the references to U.S. Application numbers. Applicants request the objection to the disclosure be withdrawn.

Applicants elect Species I and Species A for prosecution on the merits in this application if no generic claim is finally held to be allowable. Currently, claims 84, 85, 87-90 and 93-103 read on the elected species.

Claim Rejections – 35 U.S.C. § 112

In response to the Examiner's rejection of claims 84-90 and 93-103 under 35 U.S.C. § 112, second paragraph, Applicants have amended independent claim 84 to recite "pulling the molded fastener hook elements from the mold cavities to separate the molded fastener hook elements from the mold roll," thus deleting the limitation "the fastener product." This amendment is made merely to provide proper antecedent basis for the limitations of claim 84. Accordingly, Applicants request withdrawal of this rejection.

Claim Rejections – 35 U.S.C. § 102

Claims 84, 85, 93-95 are rejected under 35 U.S.C. § 102 as being anticipated by Murasaki (U.S. Patent No. 5,643,651). Additionally, claims 84, 85, 93-95, 98 and 99 are rejected under the same section as being anticipated by Wessels et al. (U.S. Patent No. 5,669,120).

In response to these rejections, independent claim 84 is amended by incorporating the limitations of claim 86, namely, "introducing a pre-formed, elastically stretchable sheet material to the spaced-apart amounts of resin to laminate a surface of the material to the bases." Applicants respectfully request withdrawal of these rejections.

Claim Rejections – 35 U.S.C. § 103

Claims 102 and 103 are rejected under 35 U.S.C § 103(a) as being unpatentable over Murasaki or alternatively Wessels et al. Claim 98 is rejected under 35 U.S.C §103(a) as being unpatentable over Murasaki in view of Kennedy (U.S. Patent No. 5,260,015). Claims 86-90, 96, 97 and 99-101 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Murasaki in view of Kennedy and in further view of Weirich (WO 97/25893), Verona (WO 99/22619 or U.S. Patent No. 6,197,404), and/or Shepard '452 (WO 99/11452) and claims 99, 102 and 103 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Murasaki in view of Kennedy and in further view of Shepard '623 (U.S. Patent No. 6,205,623).

As noted above, claim 84, the sole independent claim, has been amended to recite “introducing a pre-formed, elastically stretchable sheet material to the spaced-apart amounts of resin to laminate a surface of the material to the bases, the bases being spaced-apart from each other and the sheet material extending laterally across the resin bases such that the surface is exposed in at least one resin-free region of the material extending between the bases.” As acknowledged by the Examiner, neither Murasaki nor Kennedy explicitly discloses the use of an elastic material. Murasaki, Wessels et al. and Kennedy also fail to disclose or fairly suggest forming an elastic fastener web carrying fastener elements. The Examiner argues, however, that “[i]t is well within the purview of one of ordinary skill in the art to provide an elastic material as the web material as a well known material property for webs of fastening materials in a variety of applications.” In support of this argument, the Examiner cites Weirich, Verona, and/or Shepard '452. Thus, the Examiner concludes that “it would have been obvious to one of ordinary skill in the art at the time of the invention to provide the web in Murasaki and Kennedy of an elastic material....” Applicants respectfully disagree.

As pointed-out by the Examiner, it was known that backing materials could be formed having certain elastic properties. Referring, for example, to Weirich, it was also known that elastic materials could be made hook-engageable and used along with a separate hook component for releasable fastening. However, amended claim 84 concerns the realization and discovery that molded hook-shaped fastener elements extending from respective, spaced-apart

bases while being molded can be *in situ* laminated to an elastic carrier sheet to form an elastic fastener web. As noted by the Examiner, even Kennedy, while identifying a remarkably wide variety of suitable backing sheet materials, failed to explicitly teach or suggest the use of elastic materials. Nor does Kennedy suggest a method of utilizing an *in situ* lamination process to form a fastener web having elastic characteristics. These failures by Kennedy (and also by Murasaki and Wessels et al.) are significant given that *in situ* laminating fastener element bases to an elastic carrier sheet enables achievement of significantly useful advantages.

Similarly, none of Weirich, Verona and Shepard '452 suggests a method in which a fastener product can be formed by laminating a pre-formed, elastic sheet material to spaced-apart resin bases while forming hook-shaped fastener elements – instead, each of Weirich, Verona and Shepard '452 merely discloses elastic *loop* materials in which hooks can engage. Applicants assert that there would have been no reason for the artisan to modify the teachings of Murasaki and Kennedy based on the methods of forming the different materials taught by Weirich, Verona and Shepard '452 to arrive at the Applicants' claimed invention.

Nor would the artisan have been motivated to make this modification to achieve "flexibility of the material," as asserted by the Examiner. The method of Murasaki teaches injecting molten resin from an injection die *through* a very open sheet-like connector and into hook-element-forming cavities (see col. 5, line – col. 6, line 2), while Kennedy discloses an *in situ* lamination process where molten resin does not flow at all through the backing material. Weirich, Verona and Shepard '452 do not suggest that the disclosed materials would work in the process disclosed by Murasaki, particularly, since for Murasaki to function the materials must be sufficiently open to allow resin to flow completely through the materials and still retain sufficient mold pressure to fill the mold cavities to form hook-shaped fastener elements. Nor do any of Weirich, Verona and Shepard '452 disclose or fairly suggest that the process disclosed by Kennedy can be used in such a manner to form an elastic fastener web by introducing the disclosed materials to the molten resin. One of skill in the art would have no motivation to modify the processes disclosed by Murasaki and Kennedy with the with the elastic materials disclosed by Weirich, Verona and Shepard '452.

Obviousness can only be established by combining or modifying the teaching of the prior art where there is some teaching, suggestion, or motivation to do so found either explicitly or implicitly in the references themselves or in the knowledge generally available to one of ordinary skill in the art. (See M.P.E.P. §2143.01) Motivation cannot come from the invention itself. (See, e.g., Heidelberger Druckmaschinen AG v. Hantscho Commercial Products, Inc., 21 F.3d 1068, 1072 (Fed. Cir. 1993)). Nor can *prima facie* obviousness be established by “using hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention.” In re Fine, 837 F.2d 1071, 1075 (Fed. Cir. 1988).

The Examiner has not provided sufficient evidence of motivation to combine or modify the references to arrive at Applicants’ claimed invention. Instead, the Applicants themselves discovered that an elastically stretchable sheet material can be introduced to the spaced-apart amounts of resin to laminate a surface of the material to the resin while forming hook-shaped fastener elements to form an elastic fastener web, as claimed. Accordingly, Applicants respectfully request that the obviousness rejection be withdrawn.

With regard to dependent claims 85, 87-90 and 93-103, Applicants request reconsideration in light of the above arguments and amendments.

In particular, Applicants emphasize the uniqueness of the feature of claim 87 that restricts the elastic stretchiness to the transverse direction. By observing this condition, the material may be essentially non-stretchy in the direction of pulling the fastener hook elements from the mold cavities.

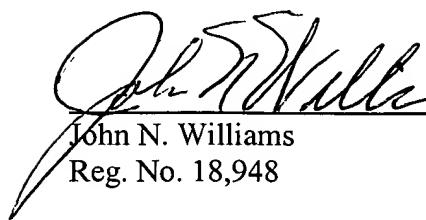
Applicants previously authorized applying the required fees for the Petition for Two Month Extension of Time, as well as any other charges or credits to deposit account 06-1050, attorney’s reference number 05918-117001.

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Respectfully submitted,

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